

Assembly Bill No. 1320

CHAPTER 749

An act to amend Sections 19352, 19352.5, 19352.8, 19353, 19353.5, 19354, 19354.5, 19356.6, and 19806 of the Welfare and Institutions Code, relating to human services.

[Approved by Governor October 7, 1997. Filed
with Secretary of State October 7, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1320, Bordonaro. Developmentally disabled.

Existing law requires the State Department of Rehabilitation to implement a habilitation services program to provide work-activity program services for individuals with developmental disabilities.

This bill would revise the responsibilities and membership of habilitation teams in determining the appropriate services to be provided to recipients, revise eligibility requirements, and revise procedures for the sanction of providers under the program.

Existing law provides for the grant of awards to independent living centers during a fiscal year.

This bill would provide for the grant of the awards at the beginning of a fiscal year.

This bill would incorporate additional changes in Section 19356.6 of the Welfare and Institutions Code, proposed by AB 715, to be operative only if AB 715 and this bill are both chaptered and become effective January 1, 1998, and this bill is chaptered last.

The people of the State of California do enact as follows:

SECTION 1. Section 19352 of the Welfare and Institutions Code is amended to read:

19352. As used in this chapter:

(a) "Habilitation services" means those community-based services purchased or provided for adults with developmental disabilities including work activity and supported employment, to prepare and maintain them at their highest level of vocational functioning, or to prepare them for referral to vocational rehabilitation services.

(b) "Individual program plan" means the overall plan developed by a regional center pursuant to Section 4646.

(c) "Individual habilitation component" means the plan developed for each eligible individual for whom services are purchased under this chapter.

(d) "Department" means the Department of Rehabilitation.

(e) “Work-activity program” includes, but is not limited to, sheltered workshops or work-activity centers, or community-based work activity programs accredited under departmental regulations.

(f) “Habilitation team” means a group, which shall be established for each work-activity program or supported employment services, which shall be composed of the following members:

(1) The regional center case manager.

(2) The work-activity or supported employment program case-responsible individual.

(3) A habilitation specialist designated by the department.

(4) The work-activity or supported employment program consumer, and where appropriate, his or her parent, legal guardian, or conservator and any other individual named by the consumer.

(5) In cases where the work-activity or supported employment consumer is also a vocational rehabilitation consumer, the vocational rehabilitation counselor.

(g) “Work-activity program day” means the period of time during which a work-activity program provides services to clients.

(h) “Full day of service” means, for purposes of billing, a day in which the consumer attends a minimum of the declared and approved work-activity program day, less 30 minutes, excluding the lunch period.

(i) “Half day of service” means, for purposes of billing, (1) all days of attendance in which the consumer’s attendance does not meet the criteria for billing for a full day of service as defined in subdivision (h), and (2) the consumer attends the work activity program not less than two hours excluding the lunch period.

(j) “Supported employment program” means a program which meets the requirements of Sections 19356.6 and 19356.7.

(k) “Consumer” means any individual who receives services purchased under this chapter.

(l) “Consumer with special needs” means any individual who needs an enriched program of services due to multiple disabling conditions or other unique needs of the consumer which include, but shall not be limited to, mobility impairments, blindness, deafness, or psychiatric impairment.

(m) “Accreditation” means a determination of compliance with the set of standards appropriate to the delivery of services by a work-activity program or supported employment program, developed by the CARF—The Rehabilitation Accreditation Commission, and applied by the commission or the department.

SEC. 2. Section 19352.5 of the Welfare and Institutions Code is amended to read:

19352.5. (a) The habilitation team shall meet when it is necessary to do any of the following:

(1) Determine if the services available at the work-activity program or supported employment program best meet the needs of the consumer.

(2) Determine initial eligibility.

(3) Develop an individual habilitation component.

(4) Review continued eligibility.

(5) Determine if the consumer would be better served by another work-activity or supported employment program.

(6) Determine the appropriateness of job placement.

(b) (1) If the habilitation specialist disagrees with the team, the habilitation specialist shall make the final decision subject to appeal to the department by the consumer or his or her designated representative.

(2) The habilitation specialist shall substantiate any decision made pursuant to paragraph (1) by doing all of the following:

(A) Stating in writing the reasons for disagreement and the decision.

(B) Stating that the decision is not made for fiscal reasons.

SEC. 3. Section 19352.8 of the Welfare and Institutions Code is amended to read:

19352.8. Only decisions made by the habilitation team or habilitation specialist with respect to the provisions listed in paragraphs (1) to (6), inclusive, of subdivision (a) of Section 19352.5 are subject to appeal. If a work-activity program or supported employment program consumer appeals a decision made pursuant to paragraphs (1) to (6), inclusive, of subdivision (a) of Section 19352.5 to the department, the consumer shall, pending the outcome of the appeal, continue to receive the same level of services provided prior to appeal.

SEC. 4. Section 19353 of the Welfare and Institutions Code is amended to read:

19353. An individual shall be eligible for habilitation services under this chapter when all of the following exist:

(a) The individual is an adult who has been diagnosed as having a developmental disability.

(b) The disability is so severe that the individual does not presently have potential for competitive employment.

(c) The individual's disability is too severe for the individual to benefit from vocational rehabilitation services and it is determined that the individual may be mutually served by the vocational rehabilitation program and it is also determined that the individual needs extended supported employment services following successful rehabilitation by the department's vocational rehabilitation program.

(d) The individual is determined to be in need of habilitation services in an individual program plan developed by a regional center pursuant to Section 4646.

(e) The department verifies, as necessary, that the individual meets the eligibility criteria for habilitation services specified in subdivisions (a) to (d), inclusive, and the habilitation specialist signs a statement that the individual is eligible for habilitation services.

SEC. 5. Section 19353.5 of the Welfare and Institutions Code is amended to read:

19353.5. (a) When the department has made its determination of eligibility pursuant to subdivision (e) of Section 19353, the individual shall be placed in a work-activity program or, if placed on the waiting list for vocational rehabilitation services, a supported employment program, and shall be deemed presumptively eligible for the period not to exceed 90 days.

(b) During the period of presumptive eligibility, the work-activity program or supported employment program in which the individual is placed shall evaluate the performance of the individual in all of the following areas:

(1) Appropriate behavior to safely conduct himself or herself in a work setting.

(2) Adequate attention span to reach a productivity level in paid work.

(3) Ability to understand simple instructions within a reasonable length of time.

(4) Ability to communicate basic needs and understand basic receptive language.

(5) Attendance level.

(c) (1) During the period of presumptive eligibility, the habilitation team shall, utilizing the findings of the work-activity or supported employment program made pursuant to this section, determine the initial eligibility of the individual.

(2) The habilitation team shall meet only as necessary under Section 19352.5.

SEC. 6. Section 19354 of the Welfare and Institutions Code is amended to read:

19354. The individual program plan shall remain in effect as the overall service plan that is the responsibility of the regional center except that the department shall be responsible for the approval of the individual habilitation component of the individual program plan developed by the work-activity or supported employment program, and the purchase of habilitation services.

SEC. 7. Section 19354.5 of the Welfare and Institutions Code is amended to read:

19354.5. (a) The department shall monitor, evaluate, and audit habilitation services providers for program effectiveness taking into consideration criteria, including, but not limited to, all of the following:

(1) Service quality assurance.

(2) Cost effectiveness.

- (3) Cost containment.
- (4) Protections for individuals receiving services.
- (5) An equitable rate system.

(6) Compliance with applicable standards of the CARF—The Rehabilitation Accreditation Commission.

(b) (1) The department may impose immediate sanctions on providers of work-activity programs and supported employment programs for noncompliance with accreditation or services standards contained in regulations adopted by the department, and safety violations which pose a threat to consumers of habilitation services. These sanctions shall include, but need not be limited to, a moratorium on new referrals, imposition of a corrective plan as specified in regulations, removal of consumers from a service area where dangerous conditions or abusive conditions exist, and termination of approval for habilitation funding.

(2) A moratorium on new referrals may be the first formal sanction to be taken except in instances where consumers are at imminent risk of abuse or other harm. In the case where a moratorium on new referrals is the first formal sanction, a corrective plan shall be developed simultaneously by the habilitation specialist. The moratorium shall be in place only until the conditions cited are corrected per the corrective plan as determined by the habilitation specialist.

(3) A corrective plan is a formal sanction that shall be taken simultaneously with a moratorium on new referrals, or may be taken as a single sanction in circumstances that do not require a moratorium, as determined by the habilitation specialist. Noncompliance with the conditions and timelines of the corrective plan shall result in termination of approval for habilitation funding.

(4) Removal of consumers from a program shall only take place where dangerous or abusive conditions are present, or upon termination of approval for habilitation funding. In instances of removal for health and safety reasons, consumers may return, at their option, when the corrections are made by the program, as determined by the department.

(5) Any provider sanctioned under paragraph (2) or (3) may request an administrative review.

(A) The sanctioned provider shall submit its request for an administrative review, in writing, no later than 30 calendar days following written notice from the department on the sanctions imposed. The response shall be addressed to the Chief Deputy Director of the Department of Rehabilitation. The request for administrative review shall specify the reasons the appellant believes the sanctions should not be imposed and shall include supporting documentation. The department shall convene a Habilitation Services Program administrative review committee within 30 calendar days of receipt of a timely written request for an

administrative review. The committee shall be made up of the Chief Deputy Director of the Department of Rehabilitation and the deputy directors or their designees. A written decision of the committee shall be mailed to the appellant within 15 working days of the administrative review.

(B) A provider sanctioned under paragraph (4) may also request an expedited administrative review from the deputy director directly responsible for the administration of the Habilitation Services Program. The expedited review request shall be made by 4 p.m. of the first full-working day following removal of the consumers. A telephone request to the deputy director, or his or her designee, stating a wish to appeal the removal of consumers and a statement of reasons shall be accepted when followed by written confirmation received in the deputy director's office no later than five working days after the action to remove consumers is taken. The expedited administrative review by the deputy director, or his or her designee, shall take place within five working days of receipt of a timely request. A written decision shall be issued within five working days of the expedited administrative review. The provider sanctioned under paragraph (4) may exercise the administrative review procedure referenced in subparagraph (A) in lieu of, or in addition to, the expedited administrative review. In the event both options are exercised, the regular administrative review shall serve as a second level review.

(6) Any provider sanctioned under paragraph (4) shall have a right to a formal review by the Office of Administrative Hearings under Chapter 4 (commencing with Section 11370) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 8. Section 19356.6 of the Welfare and Institutions Code is amended to read:

19356.6. (a) The definitions contained in this subdivision shall govern the construction of this section, with respect to services provided through the Habilitation Services Program, and unless the context requires otherwise, the following terms shall have the following meanings:

(1) "Supported employment" means paid work that is integrated in the community for individuals with developmental disabilities whose vocational handicap is so severe that they would be unable to achieve this employment without specialized services and would not be able to retain this employment without an appropriate level of ongoing postemployment support services.

(2) "Integrated work" means the engagement of an employee with a disability in work in a natural community employment setting, including, but not limited to, groups and individual placements, in which the degree of integration is measured by the extent to which the disabled employee has opportunities to interact with nondisabled



individuals other than those providing direct support services to the disabled employee.

(3) “Group placement” means the employment of a group containing at least three, but not more than eight, individuals with developmental disabilities working together in an integrated work setting in the community.

(4) “Individual placement” means the employment of an individual with a developmental disability by an employer in the community, directly or through contract with a supported employment program, and providing supported employment services which are intended to lead to employer-paid and employer-supervised employment, and where services decrease as the individual adjusts to the job; and providing ongoing postemployment services necessary for the individual to retain the job.

(5) “Allowable supported employment services” means the services approved in the individual habilitation component and provided, to the extent allowed by the Habilitation Services Program, for the purpose of achieving supported employment as an outcome for individuals with developmental disabilities, which may include any of the following:

(A) Program staff time spent conducting task analysis on a supported employment opportunity for a specific consumer or group of consumers.

(B) Program staff time spent in the direct supervision or training of a consumer or consumers while they are engaged in integrated work designed to achieve supported employment unless other arrangements for consumer supervision, such as employer supervision reimbursed by the work-activity program, are approved by the Habilitation Services Program.

(C) Social skills training which is necessary to ensure job adjustment and retention, and which is provided in an integrated setting, unless otherwise approved by the Habilitation Services Program.

(D) Training in certain independent living skills, such as independent travel or money management, which is necessary to ensure job adjustment and retention and which is provided in the community, unless otherwise approved by the Habilitation Services Program.

(E) Counseling with family, care providers, or others to ensure necessary support to consumers’ job adjustment or to overcome problems affecting their job performance.

(F) Direct action to advocate on behalf of a consumer to resolve problems affecting the consumer’s work adjustment or retention of an integrated job.

(G) Intervention with the employer to review a consumer's job performance, resolve job problems or facilitate the employer's hiring of the consumer as an employee.

(H) In the case of groups which must take equipment or materials to and from the worksite, the time the group members spend preparing for, and ending, the day's work.

(I) In the case of individual placements, job development to the extent authorized by the Habilitation Services Program, and ongoing postemployment support services needed to ensure the consumer's retention of the job.

(J) In the case of developing group placement job sites, the staff time spent obtaining and arranging the jobsite for the first three consumers employed in the group placement.

(b) (1) The Habilitation Services Program shall set hourly rates for supported employment services provided in accordance with this section. The Habilitation Services Program shall apply those rates to those work-activity programs or program components of work-activity programs approved by the department to provide community-integrated services under former paragraph (3) of subdivision (d) of Section 19356.5, and to new programs or components approved by the Habilitation Services Program to provide supported employment services following enactment of this section. Both of these categories of programs or components shall be required to comply with the criteria set forth in subdivision (b) of Section 19356.7 to receive approval from the Habilitation Services Program.

(2) (A) The hourly rate for supported employment services provided to consumers in group placements shall be four dollars (\$4) per client or, in the case of new components of existing programs, the work-activity program's daily rate converted to an hourly rate according to the formula set forth in subdivision (c), whichever hourly rate is the higher.

(B) The Habilitation Services Program may, at its discretion, set a higher hourly rate for supported employment services provided to individual consumers in a group placement, based upon the additional cost to provide ancillary services to the individual within the group placement in accordance with ratesetting procedures set forth in regulations, when there is documentation that demonstrates a need for a higher rate because of the nature and severity of the disabilities of the individual consumer, as determined by the Habilitation Services Program.

(C) A consumer in group placement for which a higher rate, due to the nature and severity of the consumer's disability, had been in effect on December 31, 1996, shall continue to be funded at the higher rate until he or she is no longer employed in the specific group placement receiving the higher rate, or until it is determined that the

nature and severity of the consumer's disability no longer justifies the higher rate.

(3) The hourly rate for supported employment services provided to consumers in individual placement shall be twenty dollars (\$20) per consumer for one-to-one services. If more than one consumer is receiving supported employment services simultaneously at the same site, the amount to be reimbursed per hour of service provided shall not exceed the approved hourly rate for the supported employment program regardless of the number of consumers receiving service during the hour.

(4) These hourly rates shall be subject to rate adjustments provided by law commencing with the 1987-88 fiscal year.

(5) (A) Commencing July 1, 1991, the department shall add to each supported employment program rate an amount that is the equivalent of the hourly reimbursement received by the program for administrative services delivered during the period of July 1, 1990, to March 31, 1991, inclusive.

(B) For programs approved after July 1, 1991, pursuant to Section 19356.7, the statewide average for hourly reimbursement for administrative services shall be applied to the rate.

(6) It is the intent of the Legislature that, commencing July 1, 1996, the department establish rates for both habilitation services and vocational rehabilitation supported employment services pursuant to this section.

(c) (1) When a consumer receives traditional work-activity services and supported employment services during the same payment period, the Habilitation Services Program shall convert the daily rate for the traditional work-activity services into an hourly rate for the purpose of paying for those traditional work-activity services received by that consumer. In its conversion of the daily rate into any hourly rate, the Habilitation Services Program shall use the formula in paragraph (2).

(2) The daily rate of the work-activity program shall be divided by the number of hours in the program day of the traditional work-activity program during the historical period on which its rate is based, or as of the date the Habilitation Services Program approved the work-activity program as a new provider of habilitation services plus 5 percent.

(d) If a consumer has been placed on a waiting list for vocational rehabilitation as a result of the department's order of selection regulations, the Habilitation Services Program may pay for those supported employment services leading to job development set forth in subparagraphs (A), (C), (D), (E), (I), and (J) of paragraph (5) of subdivision (a).

SEC. 8.5. Section 19356.6 of the Welfare and Institutions Code is amended to read:

19356.6. (a) The definitions contained in this subdivision shall govern the construction of this section, with respect to services provided through the Habilitation Services Program, and unless the context requires otherwise, the following terms shall have the following meanings:

(1) “Supported employment” means paid work that is integrated in the community for individuals with developmental disabilities whose vocational disability is so severe that they would be unable to achieve this employment without specialized services and would not be able to retain this employment without an appropriate level of ongoing postemployment support services.

(2) “Integrated work” means the engagement of an employee with a disability in work in a community employment setting in which the degree of integration is measured by the extent to which the disabled employee has opportunities to interact with nondisabled individuals, other than those paid to provide direct support services to the disabled employee.

(3) “Supported employment placement” means the employment of an individual with a developmental disability by an employer in the community, directly or through contract with a supported employment program, and the provision of supported employment services, and the provision of ongoing postemployment services necessary for the individual to retain employment. Services for those individuals receiving one-to-one training and support services from a supported employment program shall decrease as the individual adjusts to his or her employment and the employer assumes many of those functions.

(4) For individuals receiving postemployment support services at a job coach-to-client ratio of one-to-one or one-to-two, postemployment services may be provided on or off the jobsite, except that no ancillary services may be provided pursuant to subparagraph (A) of paragraph (2) of subdivision (b).

(5) For individuals receiving postemployment support services at a job coach-to-client ratio of other than one-to-one or one-to-two, ancillary services may be provided, except that all postemployment and ancillary services shall be provided at the worksite.

(6) “Allowable supported employment services” means the services approved in the individual habilitation component and provided, to the extent allowed by the Habilitation Services Program, for the purpose of achieving supported employment as an outcome for persons with developmental disabilities, that may include any of the following:

(A) Program staff time spent conducting job analysis of supported employment opportunities for a specific consumer.

(B) Program staff time spent in the direct supervision or training of a consumer or consumers while they engage in integrated work unless other arrangements for consumer supervision, such as

employer supervision reimbursed by the supported employment program, are approved by the Habilitation Services Program.

(C) Training occurring in the community, in adaptive functional and social skills necessary to ensure job adjustment and retention such as social skills, money management, and independent travel.

(D) Counseling with a consumer's significant other to ensure support of a consumer in job adjustment.

(E) Advocacy or intervention on behalf of a consumer to resolve problems affecting the consumer's work adjustment or retention.

(F) Job development, to the extent authorized by the Habilitation Services Program.

(G) Ongoing postemployment support services needed to ensure the consumer's retention of the job.

(b) (1) The Habilitation Services Program shall set rates for supported employment services provided in accordance with this section. The Habilitation Services Program shall apply those rates to those work-activity programs or program components of work-activity programs approved by the department to provide supported employment and to new programs or components approved by the Habilitation Services Program to provide supported employment services. Both of these categories of programs or components shall be required to comply with the criteria set forth in subdivision (b) of Section 19356.7 to receive approval from the Habilitation Services Program.

(2) The hourly rate for supported employment services shall be twenty-seven dollars and fifty cents (\$27.50). If more than one consumer is receiving supported employment services from the same job coach, the following shall apply:

(A) The total amount reimbursed for that service shall not exceed the authorized rate for supported employment services. In addition, the Habilitation Services Program may set a higher hourly rate for supported employment services provided to an individual in this configuration, based upon the additional cost to provide ancillary services, when there is a documented and demonstrated need for a higher rate because of the nature and severity of the disabilities of the consumer, as determined by the Habilitation Services Program.

(B) In addition, fees shall be authorized for the following:

(i) A two hundred dollar (\$200) fee shall be paid upon intake of a consumer into an agency's supported employment program, unless that individual has completed a supported employment intake process with that same agency within the past 12 months, in which case no fee shall be paid.

(ii) A four hundred dollar (\$400) fee shall be paid upon placement of an individual in an integrated job, unless that individual is placed with another consumer or consumers assigned to the same job coach during the same hours of employment, in which case no fee shall be paid.

(iii) A four hundred dollar (\$400) fee shall be paid after a 90-day retention of a consumer in a job, unless that individual has been placed with another consumer or consumers assigned to the same job coach during the same hours of employment, in which case no fee shall be paid.

(3) These rates shall take effect on July 1, 1998.

(4) It is the intent of the Legislature that, commencing July 1, 1996, the department establish rates for both habilitation services and vocational rehabilitation supported employment services pursuant to this section.

(c) If a consumer has been placed on a waiting list for vocational rehabilitation as a result of the department's order of selection regulations, the Habilitation Services Program may pay for those supported employment services leading to job development set forth in subparagraph (B) of paragraph (2) of subdivision (b).

SEC. 9. Section 19806 of the Welfare and Institutions Code is amended to read:

19806. (a) For each fiscal year commencing with the 1984-85 fiscal year, an independent living center shall not be required to provide any matching funds through private contributions as a condition of receiving state funds except to acquire state incentive funds. An independent living center whose allocation of funds pursuant to this chapter, excluding state incentive funds, is less than one hundred fifty thousand dollars (\$150,000) shall, to the extent funds are appropriated by the Legislature and allocated in accordance with regulations adopted by the department, receive, during the 1984-85 fiscal year, an amount of state funds pursuant to this section, in an amount equal to 50 percent of the difference between one hundred fifty thousand dollars (\$150,000) and the independent living center's allocation under this chapter. During the 1985-86 fiscal year, and each fiscal year thereafter, until the 1994-95 fiscal year, each independent living center shall receive, to the extent funds are appropriated by the Legislature and allocated in accordance with regulations adopted by the department, except for state incentive funds, at least one hundred fifty thousand (\$150,000) in funds allocated under this chapter. Beginning with the 1994-95 fiscal year, and each fiscal year thereafter, each independent living center shall receive, to the extent funds are appropriated by the Legislature and allocated in accordance with regulations adopted by the department, excluding state incentive funds, at least one hundred seventy-five thousand dollars (\$175,000) in funds allocated under this chapter. However, beginning with the 1994-95 fiscal year, and for each fiscal year thereafter, state funds may be replaced by reimbursements under the Supplemental Security Disability Insurance and the Supplemental Security Income programs provided for under Titles II and XVII of the Federal Social Security Act, Subchapter II (commencing with Section 401) and Subchapter

XVII (commencing with Section 1381) of Chapter 7 of Title 42 of the United States Code to the extent appropriated by the Legislature and allocated by the department to independent living centers under this chapter. Beginning with the 1996–97 fiscal year, and each year thereafter, to the extent these funds from the Social Security Act are not appropriated by the Legislature as were appropriated in the 1995–96 fiscal year, an amount equal to the combined state and federal fund allocation to independent living centers in the Budget Act of 1995 shall be appropriated to, and allocated by, the department to independent living centers under this chapter.

(b) (1) In addition to funds received pursuant to subdivision (a), and subject to the limitations of subdivision (c), to the extent funds are appropriated by the Legislature, and allocated in accordance with regulations adopted by the department, each independent living center shall have the amount of its private contributions which, for any fiscal year, exceeds the amount of private contributions received by the independent living center during the 1982–83 fiscal year matched by state incentive funds on the basis of one dollar (\$1) in state incentive funds for each one dollar (\$1) received in private contributions.

(2) Available state incentive funds shall be allocated at the beginning of each fiscal year based upon the private contributions received by the independent living center in the second preceding fiscal year.

(3) For the purpose of determining eligibility for state incentive funds, any independent living center that uses a fiscal year other than the state fiscal year may elect to use a different fiscal year so long as the closing date of the fiscal year so elected does not precede the closing date of the equivalent state fiscal year by more than 11 months.

(4) The amount of private contributions claimed by an independent living center for each fiscal year, including the 1982–83 fiscal year, shall be verified by the department by utilizing appropriate financial records including, but not limited to, independent audits. Audits may be performed by the department up to three years from the close of the fiscal year during which state incentive funds were received by the independent living center being audited.

(c) The maximum amount of incentive funds as defined in subdivision (d) that may be acquired by any independent living center in any single fiscal year shall be computed as follows:

(1) Each independent living center funded under Section 19803 shall be entitled to acquire state incentive funds as specified in subdivision (b) in an amount not to exceed the total available state incentive funds, divided by the number of independent living centers then funded under Section 19803.

(2) Incentive funds remaining after the initial allocation pursuant to paragraph (1) shall be allocated among centers with remaining unmatched private contributions. Each center with remaining unmatched private contributions shall be allowed to match remaining incentive funds in an amount equal to the total remaining incentive funds divided by the number of centers with remaining private contributions. Subsequent distributions shall be made pursuant to the formula described in the preceding sentence and shall be repeated as many times as is necessary to allocate incentive funds to the greatest extent possible.

(3) State incentive funds not distributed to independent living centers under paragraph (1) or (2) shall not be allocated under Section 19803 nor retained by the department for distribution as state incentive funds in later fiscal years.

(d) For purposes of this section:

(1) "Private funds" does not include any funds originating from any entity of the federal, state, city, or county government or any political subdivision thereof.

(2) "State incentive funds" means state funds appropriated by the Legislature for purposes of this chapter, except those funds allocated by the department pursuant to Section 19803 and subdivision (a) of this section.

(e) Any funds allocated under this chapter to any independent living center, other than as part of the initial allocation for each fiscal year, shall be made by contract amendment. Any such contract amendment shall require the provision of services in addition to that required by the contract being amended. All such services required by contract amendment shall not be performed prior to the date the contract amendment is approved by the state.

SEC. 10. Section 8.5 of this bill incorporates amendments to Section 19356.6 of the Welfare and Institutions Code proposed by both this bill and AB 715. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1998, (2) each bill amends Section 19356.6 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 715, in which case Section 8 of this bill shall not become operative.

